

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF PUERTO RICO

**CARLOS A. GARCIA-PEREZ,  
et al.,**

Plaintiffs,

v.

**ALVARO SANTAELLA, MD, et al.,**

Defendants.

Civil No. 97-1703 (JAG)

**PLAINTIFFS' OPPOSITION TO MOTION TO STRIKE**

TO THE HONORABLE COURT:

COME NOW the plaintiffs, through the undersigned attorneys, and to this Honorable Court respectfully state and pray:

1. On November 9, 2004, defendant American International Insurance Company of Puerto Rico, Inc. ("AIICO") filed a "Motion to Strike" plaintiffs' October 28, 2004 Motion *In Limine*. AIICO's motion to strike is premised on their contention that a motion *in limine* is not the technically "appropriate mechanism" for plaintiffs' request for a ruling on the legal issue of whether the aggregate limit of liability for the defendants' insurance policies should apply.

2. Defendant AIICO was not present at the Status Conference before this Court on September 24, 2004. At said Status Conference, the insurance policy issue was raised by the plaintiffs. All parties agreed that the dispute as to whether the aggregate or single incident limit applies was hindering any attempts at settlement of this action.

3. At the Status Conference, plaintiffs discussed raising the issue via a motion *in limine*. As can be seen from this Court's Second Status Conference Report and Order, dated September 30, 2004, this Court agreed the issue needed to be resolved and accordingly set a deadline for plaintiffs "to file any motions regarding insurance coverage claims ... ." Plaintiffs have complied, and whether the motion is entitled motion *in limine*, or motion for summary judgment, or any other title, the issue remains the same.

4. As a final matter, plaintiffs note that this opposition should have been filed on December 1, 2004, pursuant to the Federal Rules of Civil Procedure. This deadline was inadvertently overlooked.

WHEREFORE, plaintiffs respectfully request that this Honorable Court accept the filing of this opposition, deny AIICO's motion to strike, and grant plaintiffs' Motion *In Limine*.

Respectfully submitted.

In San Juan, Puerto Rico, this 6<sup>th</sup> day of December, 2004.

**I HEREBY CERTIFY:** That I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system which will send notification of such filing to Pedro J. Córdova, Esq., P.O. Box 9023998, San Juan, Puerto Rico 00902-3998; Angel R. de Corral-Juliá, Esq., De Corral & De Mier, 130 Eleonor Roosevelt, San Juan, Puerto Rico 00918-3105; Marta E. Vilá-Báez, Esq., Sánchez, Betances & Sifre, P.O. Box 195055, San Juan, Puerto Rico 00919-5055; Roberto Ruiz-Comas, Esq., González Pando Plaza, 1181 Jesús T. Piñeiro Avenue, San Juan, Puerto Rico 00920-5604; José Enrique Otero, Esq., P.O. Box 9023933, San Juan, Puerto Rico 00902-3933; José Héctor Vivas, Esq., Vivas & Vivas, P.O. Box 330951, Ponce, Puerto Rico 00733-0951; Igor J. Domínguez, Esq., 652 Muñoz Rivera Avenue, Suite 3125, Hato Rey, Puerto Rico 00918-4261; Doris Quiñones-Tridas, Esq., 113 Padre Las Casas, Suite 601, Urb. El Vedado, San Juan, Puerto Rico 00918-3116; Pedro Toledo-González, Esq., Julio Bogoricin Building, Office L-06, Lobby, 1606 Ponce de León Avenue, Santurce, Puerto Rico 00909; Gilda del C. Cruz Martino, Esq., P.O. Box 9023875, San Juan, Puerto Rico 00902-3875; Jeannette López de Victoria, Esq., Isabel Guillén Bermúdez, Esq., Pinto Lugo, Oliveras & Ortiz, P.O. Box 9024098, San Juan, Puerto Rico 00902-4098.

s/ Joan S. Peters

029-97/oppo12-6-04.n

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